REMARKS

I. Introduction

In response to the pending Office Action, Applicants have incorporated the limitations of claim 2 into claim 1. Claim 2 has been cancelled, without prejudice. Claims 1 and 3 have also been amended to further clarify the subject matter of the present disclosure. Support for the amendment to claims 1 and 3 may be found in paragraphs [0017]-[0018] of the present disclosure. No new matter has been added.

For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art.

II. The Rejection Of Claims 1-3 Under 35 U.S.C. § 103

Claims 1 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Louzos (USP No. 3,844,838) in view of JP 10-083811; and claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Louzos in view of JP 10-083811 and further in view of JP 05-013073. As claim 2 has been incorporated into claim 1, Applicants will refer to claim 1 to address the rejection of claim 2. Accordingly, Applicants respectfully traverse this rejection for at least the following reasons.

With regard to the present invention, amended claim 1 recites an alkaline battery comprising: a negative electrode including an electrode mixture that contains a zinc or zinc alloy powder as an active material; an alkaline electrolyte; and a positive electrode, wherein said zinc or zinc alloy powder has a specific surface area of 0.01 to 10 m^2/g, and the weight ratio of the alkaline electrolyte contained in the battery to the active material (electrolyte/negative electrode

active material) is in the range of 0.1 to 2, and said electrode mixture contains 0.15 to 0.9 wt% of lithium hydroxide.

One feature of amended claim 1 is that the electrolyte is contained in the positive electrode mixture, the separator and the gelled negative electrode. Thus, the amount of electrolyte contained only in the negative electrode cannot be determined. As such, the amount of electrolyte in amended claim 1 refers to the whole alkaline electrolyte contained in the battery.

It is alleged that JP 10-83811 states that the zinc/electrolyte ratio is from 1.75 to 1.90. However, since JP 10-83811 relates to a gelled negative electrode, the amount of electrolyte in this ratio appears to be the amount of the electrolyte contained only in the negative electrode, not the amount of the whole electrolyte contained in the battery. As such, JP 10-83811 fails to disclose the limitation of amended claim 1 wherein the weight ratio of the alkaline electrolyte contained in the battery to the active material (electrolyte/negative electrode active material) is in the range of 0.1 to 2. Furthermore, neither Louzos nor JP 05-013073 appear to remedy this deficiency.

Moreover, it is admitted in the Office Action that Louzos and JP 10-083811 fail to disclose an electrode mixture which contains 0.15 to 0.9 wt% of lithium hydroxide. JP 05-013073 is alleged to remedy this deficiency. However, the range actually cited in JP 05-013073 is 0.05 to 10% by weight. This range is far greater than the claimed range, 0.15 to 0.90%. As can be seen in Table 3 on page 18 of the specification, batteries with lithium hydroxide content of from between 0.15 to 0.9 have superior P values and capacity values over those with 0.1 and 1.0 wt% of lithium hydroxide. Attachment 1, included with this Response, is a copy of Table 3 with circled values at the edge and outside the range of amended claim 1. For example, the first

and ninth batteries with a lithium hydroxide content of 0.1% have significantly lower P% on 160 mA and 1 A discharge as compared to the second and tenth batteries with 0.15% LiOH content. In addition, the eighth and 16th batteries with 1% LiOH content have significantly lower capacity than the seventh and 15th batteries having 0.9% LiOH content. As such, it is clear that the claimed range of the present disclosure is superior and unexpected in view of Louzos, JP 10-083811 and JP 05-013073.

As is well known, an applicant can rebut a presumption of obviousness based on a claimed invention that falls within a prior art range by showing...that there are new and unexpected results relative to the prior art." *Iron Grip Barbell Co., Inc. v. USA Sports, Inc.*, 392 F.3d 1317, 1322, 73 USPQ2d 1225, 1228 (Fed. Cir. 2004). As the range in amended claim 1 for the lithium hydroxide content shows unexpected results that are superior to the range claimed by the prior art, as indicated in Table 3 of the present disclosure, Applicants submit that claim is allowable over the cited prior art. Therefore, Applicants submit that Louzos, JP 10-083811 and JP 05-013073 do not render claim 1 of the present invention obvious and accordingly, Applicants respectfully request that the § 103(a) rejection of claim 1 be withdrawn.

III. All Dependent Claims Are Allowable Because The Independent Claim From Which They Depend Is Allowable

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above, it is respectfully submitted that all pending dependent claims are also in condition for allowance.

IV. Conclusion

Having responded to all open issues set forth in the Office Action, it is respectfully submitted that all claims are in condition for allowance.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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